

The House Committee on Judiciary offers the following substitute to HB 1556:

A BILL TO BE ENTITLED

AN ACT

To amend Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to dispossessory proceedings, so as to provide for certain definitions; to provide for the assessment of certain storage charges on certain manufactured or mobile homes by landlords; to provide for the establishment of a lien on manufactured or mobile homes for certain storage costs; to provide for certain notices; to provide for remedies; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to dispossessory proceedings, is amended by adding a new Code Section 44-7-60 to the end of the article to read as follows:

"44-7-60.

(a) As used in this Code section, the term:

(1) 'Lienholder' applies only to the lienholder for unpaid purchase price or first lien who has recorded said lien on the title of the manufactured or mobile home.

(2) 'Manufactured home' has the same meaning as provided in paragraph (4) of Code Section 8-2-131.

(3) 'Mobile home' has the same meaning as provided in paragraph (6) of Code Section 8-2-131.

(b) As provided by this Code section, any lien or charge against a manufactured or mobile home for storage upon the real property on which the manufactured or mobile home is or has been located is subordinate to the rights of a lienholder for unpaid purchase price or first lien, which is recorded on the title of the manufactured or mobile home, and the assignee of such lienholder if not recorded on the title. However, storage charges, as provided in this Code section, may be collected by the real property owner from the

1 lienholder and the assignee of such lienholder by an action at law as authorized by this
2 Code section.

3 (c) The real property owner shall be entitled to collect storage charges accruing from five
4 days after the lienholder receives written notice of either an eviction proceeding instituted
5 by the real property owner against the homeowner or that the manufactured or mobile home
6 is abandoned or voluntarily surrendered by the homeowner. The notice shall state that an
7 action for eviction has been filed against the homeowner, the amount of the daily storage
8 charges calculated pursuant to this Code section, and the date upon which the homeowner
9 is required to make regular payments to the property owner.

10 (d) The lienholder shall notify the property owner within 30 days of receipt of the notice
11 pursuant to subsection (c) of this Code section whether it intends to make payment of the
12 storage charges and, if the lienholder agrees to make payment, to pay the storage charges
13 accruing to that date. Thereafter, the lienholder shall pay storage charges according to the
14 schedule of payments that the homeowner was responsible for paying. If the lienholder
15 fails to notify the property owner that it does not intend to pay the storage charges, the
16 storage charges shall accrue and be due and owing to the property owner. In the event the
17 lienholder notifies the property owner within 30 days of the receipt of the notice that it does
18 not intend to pay the storage charges, the storage charges shall not accrue, but the
19 lienholder shall not be entitled to any of the protections set forth in this Code section and
20 shall be subject to any remedies available to the property owner, including retention of
21 possession of the manufactured or mobile home and foreclosure thereon to satisfy the
22 landlord's lien for rent.

23 (e) In the event that the lienholder files either an action for replevin of the home or
24 forecloses on the lien for unpaid purchase price or first lien, the lienholder is responsible
25 for storage charges accrued from 30 days after the date of filing of the action for replevin
26 or foreclosure.

27 (f) In the event that the homeowner declares bankruptcy, the lienholder is responsible for
28 storage charges accrued from and after five days after the final court action discharging the
29 bankruptcy, or releasing the collateral, whichever occurs first.

30 (g) The maximum storage charge available to the real property owner is a daily rate equal
31 to one-thirtieth of the amount of the monthly payment last paid by the homeowner, the then
32 current lot rental amount paid by the homeowner, or if no payment has been made, the
33 payment required pursuant to contract between the real property owner and the homeowner.
34 The maximum daily storage charges may be increased over time in accordance with the
35 notice requirements under applicable provisions of law.

(h) Notice required as set forth in subsection (c) of this Code section shall be mailed by certified mail, return receipt requested. Notice by certified mail shall be effective on the date of receipt or, if refused, on the date of refusal. All other notices may be by regular mail, and shall, for purposes of calculation of time, be considered delivered five days after the date postmarked.

(i) For any lien for unpaid purchase price or first lien recorded after July 1, 2006, the lienholder shall notify the property owner of the lien against the manufactured or mobile home and the address of the lienholder.

(j) It shall be unlawful for the property owner to refuse to allow the lienholder to repossess and move the manufactured or mobile home for failure to pay any charges which were not noticed in accordance with the requirements of this Code section. In the event that the real property owner refuses to allow the lienholder to repossess and move the manufactured or mobile home, then the real property owner shall be liable to the lienholder for each day that the real property owner unlawfully maintains possession of the home, at a daily rate equal to one-thirtieth of the monthly payment last paid by the homeowner to the real property owner, or, if no payment has been made, the payment required pursuant to contract between the real property owner and the homeowner."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.